



## Renter's insurance: What you need to know

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**Y**ou have no doubt heard, or may have experienced directly, the horror stories. One common example: Resident causes a fire in the kitchen that spreads to several units. The fire causes many thousands of dollars worth of damage, but the resident doesn't have renter's insurance and doesn't have enough personal assets to pay for the damage, if you are even able to recover a judgment against the resident in court.

The National Fire Protection Association estimates that there are approximately 95,000 fires in multifamily buildings each year and that 70 percent of all fires are caused by a resident's negligence.

What's the solution? You should think about requiring residents to buy renter's insurance or personal liability protection.

### **Changes to TAA Lease Contract and new Renter's Insurance Addendum**

Recently TAA has made changes to the TAA Lease Contract and created a Renter's Insurance Addendum. You can use these new tools to help limit your liability by requiring residents to purchase renter's insurance or liability protection to cover your out-of-pocket expenses in the event of resident negligence.

### **Legal to require residents to buy insurance?**

While some jurisdictions in some other states, such as New York and Massachusetts, have enacted restrictions on the ability of a property owner to require renter's insurance, Texas has not done so. To the knowledge of TAA's general counsel, no local jurisdiction in Texas has enacted any such restriction. However, owners of government-assisted properties should review relevant federal and state regulations before implementing any mandatory insurance regime.



Tom Morgan  
Former TAA General Counsel



## Business decision about whether or not to require insurance

Nothing requires you to mandate that your residents purchase insurance or liability protection for your property. Because any kind of program you offer will involve some costs to the residents, you must take into account the market effect on your property. If market conditions justify requiring an additional expenditure by residents to protect you against your residents' negligence, then you and your residents will benefit from the reduced risk.

## Value of requiring renter's insurance

A study by Stephen Lefkovits with Joshua Tree Consulting has found substantial economic benefits to requiring renter's insurance in multifamily properties. (See "The Value Proposition of Renter's Insurance for Apartment Firms" available on the TAA website at [www.taa.org](http://www.taa.org).)

The study states that "an expected-loss model...estimates that renter's insurance provides multifamily property owners with approximately \$110,000 in expected financial benefit annually per 20 properties owned (250 units per property average)—at no cost to the property owner."

## Two terms to know

There are two terms with which you need to become familiar when deciding whether or not to implement a resident risk reduction program. The first term is "personal liability insurance," which refers to a policy that you require residents to purchase to cover your deductible on your property insurance in the event your residents cause harm to your property. The second term is "renter's insurance," which refers to a policy that covers not only the resident's liability to you but also the resident's personal property.

## At least three models you may choose

You have at least three different models to choose from in designing your resident risk-reduction program.

- First, you can partner with an insurance company that agrees to sell renter's insurance to your residents. You can provide the residents with information regarding the company; the resident purchases the insurance directly from the company.
- Second, you can simply mandate that your residents purchase renter's insurance that provides a minimum amount of coverage that you specify in the addendum. In this model, the resident finds renter's insurance on his own and then provides you with proof of insurance.
- Third, you can require that your residents pay for personal liability insurance to cover your out-of-pocket costs in the event of the negligence by the resident. In this model, you collect the additional cost of this coverage directly from the resident. This model is analogous to a utility or other common expense allocation model where a direct cost of owning and maintaining the property is passed through directly to the resident. You can collect this payment from residents as contractual rent.

## Subrogation issue

The TAA Lease Contract states that both the property owner and the resident waive subrogation rights against each other. "Subrogation" refers to a process whereby an insurance company may recover against another party for that party's negligence toward the insured party.

The rationale behind the waiver of subrogation language in the TAA Lease Contract is to avoid a common practice by insurance companies that try to

recover cost of claims by looking to any other party that could be responsible for the claims.

For example, if a resident slips on a property's sidewalk, the insurance company that pays the claim to the injured resident may try to subrogate the claim against the property owner, even if there is little evidence of negligence by the property owner.

Although the subrogation waiver makes sense in the majority of properties where most residents do not have renter's insurance, in a property where renter's insurance is mandated, the property owner needs to have the ability to subrogate any injury to the property due to a resident's negligence against the resident's insurance company.

Therefore, the TAA Renter's Insurance Addendum has a paragraph that supercedes the subrogation waiver in the TAA Lease Contract.

## Conclusion

Creating and implementing a model to mandate renter's insurance or personal liability protection can create an important economic benefit to all owners of multifamily property at little or no cost to the property owner. ❖

*Note: Tom Morgan left TAA June 30 to return to the Texas Association of Realtors. Wendy Wilson joins TAA as its new General Counsel August 1.*

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